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## DISCUSSION

### ON PAPERS ON RAILWAY RATE REGULATION

F. H. DIXON : It is obviously impossible for me in the few moments at my command to do more than state in a general way the points of agreement or disagreement with the interesting papers to which you have just listened. Any attempt to controvert specific points is quite out of question.

I must say at the outset, then, that in my opinion, the views of Mr. Hugo Meyer, as presented here today and elsewhere in his writings and testimony, while thoroughly stimulating, and calculated to make one pause and consider, are not in their ultimate consequences possible of acceptance. They lead inevitably to the policy of extreme *laissez-faire*, to the general conclusion that the interaction of competitive forces, undisturbed by state interference, has led and will lead to beneficent results to the people and industries of this country, and that any governmental interference must have a tendency to thwart the working of this beneficent policy. Property rights will, of course, find their protection in the courts, but only through the judiciary with its intolerable delays and its expensive processes, is the public to have any protection. This, so the argument would insist, is all the protection that the public needs. If it persists in demanding anything further, it confesses itself blind to the enormous benefits now enjoyed from an unhampered transportation system.

My own point of view may be expressed in a remark which I heard made recently by a prominent railroad president. He said that there was no longer any ques-

tion that a railroad must be regarded as a public servant and subject to the regulating power of the state, and that this implied the existence of some regulating body. That evils will arise and injustice be done in the operation of our vast transportation system is inevitable. Mr. Meyer would call this a necessary evil, one of the growing pains of progress, to be endured because of the larger benefit sure to result. My own belief is that these injustices are real and persistent and that there should be a body clothed with power speedily to do away with them.

The main contention of the paper is that the regulation of rates by a government commission leads inevitably to a distance tariff. A political body must be guided by administrative rules and cannot permit the element of discretion to enter into its decisions and consequently the only basis of action that will meet at all satisfactorily the pressure of conflicting interests is a tariff framed on the mileage basis. Such a tariff would be destructive of industry. Before discussing this point, I wish to register my protest against the form of argument which has been so common during the past year, that of basing the effect of a future policy of regulation upon a minute dissection of the Commission's utterances and decisions in the past, pouncing eagerly upon a chance sentence and using it as though it were a fundamental principle of Commission action, or preparing elaborate tables of statistics showing the number of times in which the Commission has been reversed by the courts, and drawing from such facts as these the conclusion that the Commission is utterly inefficient. One would rather expect that opponents of railroad regulation instead of becoming so disturbed over the

inaptitude of this body, would welcome its continuance in its present form, for after it has been so thoroughly disposed of by the courts, it can be but a slight hindrance to the working of railroad plans. However this may be, this method of exposure so persistently followed, even when pursued with fairness, is of little real value in deciding our future policy. If the personnel of the Commission has been weak, which I do not maintain, there is no reason why it should not be strengthened. If it has not shown sufficient familiarity with difficult traffic questions, it may be so constituted as to contain traffic experts. The failure of five men to perform everything that was expected of them when the law was framed, is by no means a final condemnation of the principle of regulation. If it were possible to expose to public view the policy and the decisions of prominent traffic managers for the past eighteen years, so that they might be scrutinized with the same care that has been bestowed upon the Commission's actions, we should doubtless discover many errors of judgment, many injustices, many well-intentioned but disastrous experiments. It is a favorite statement that railways do not make rates, that they merely register commercial conditions. Such a biography would I doubt not reveal much arbitrary rate-making, and many guesses. I doubt whether under such circumstances we should hear quite so much of the beneficence of unregulated railroad management.

But to recur to the fundamental thesis of the paper under discussion, the danger of subjecting the country, under Commission regulation, to the distance tariff. In the first place it is worth while to inquire whether the policy of disregarding distance which is carried to

such an extreme by American roads, has necessarily and always been for the country's best interest. Mr. Meyer attributes our prosperity unhesitatingly to this policy ; he accepts it as self-evident. I feel that it is by no means proved. As has been recently pointed out, the country has been obliged to bear the burden of indirect shipments on differential roads, and cross-shipments of goods of the same character to markets far removed from producing sections. The traffic manager obviously looks at the question from the point of view of his own road alone. It does not at all follow that his strenuous efforts to develop territory and secure business that leads him even to invade the territory of another system, is for the best economic interest of the country as a whole. Rate wars and patched up peace treaties may be regarded by some as automatic and beneficent adjustments of the rate question, but they involve unquestionably great economic waste. Such consequences as these are not to be disposed of as an eminent railroad president has attempted to do in the last number of the *Yale Review*, by a burst of sarcasm that ends with an exclamation point. The fact that I wish to establish is that some regard for the distance principle in rate-making would not be disastrous, but in the long run and for the whole country, beneficial.

In the second place, I would call attention to the fact that the principle is in actual practice to a considerable extent in some sections of the country, particularly in Trunk-line territory, and with no such serious consequences as you might be led to expect from the paper that has just been read. I admit that this principle is most extensively observed in the heavy traffic sections

where conditions have become stable, but this merely proves that with denser traffic and increasing stability of business in the future we may look without alarm upon a more general conformity with the practice which this principle implies.

Finally I do not anticipate any radical enforcement of the mileage rate by this or any future Commission. The decision of the Commission in the Seaboard Differential cases should dispel this fear. I recognize that there is some force in the argument that conflict of sectional interests will drive an administrative body to action based upon a system of inelastic rules, but Professor Meyer's assertions as to the probability that such a practice will be followed in the United States is drawn from the experience of countries in which the railroads are owned by the government. Here a Commission will have only an amendatory, not an initiatory power. It will be presented with concrete cases, and its inclination, quite as much as its responsibility as a government agency, will impel it to a conservative course of action that will disturb existing conditions as little as is consistent with the promotion of justice. I cannot but feel that any action taken by a government commission in the direction of establishing distance tariffs, will be taken deliberately and with conservatism. No radical action will be tolerated, and it is always to be remembered that the railroads have open to them these same courts to which they have so often invited the public to go, courts that are open not only to hear complaints but also to issue injunctions if property rights are endangered.

But even if distance tariffs should be introduced, which as I have said, I do not anticipate, I should even

then insist that the consequences would be less serious for the country as a whole than the abandonment of the principle that the public interest is paramount should be expressed through some regulating body.

S. G. MCPHERSON : “ Railway rate regulation ” is a phrase that is vague in meaning and exceedingly elastic in application. None of the speakers who have preceded me have made any specific reference to any definite phase of rate regulation and it is therefore difficult for me to base my discussion upon what has been said. I am constrained however, in reference to the assumption of Mr. Meyer of Wisconsin, that the members of this Association are familiar with the fact that a railroad company is not of the same order of business as a soap factory, and therefore not subject to the same underlying principles, to suggest that perhaps Mr. Meyer’s assumption carried an implication that reaches further than he intended ; that is, that a railroad is in no respect like a soap factory. The fact is that in so far as its balance sheet is concerned a railroad company is exactly like a soap factory : if it spend more than it earns it can not like the Post Office Department make up the deficit from taxation, but it is sold out just like a soap factory or any other business concern.

As bearing upon this fundamental statement suppose we consider some of the elementary principles that must be observed in railway rate making, no difference by what agency the rates are made, if the communities served by the railroads are to be prosperous. It must be borne in mind that the cost of a railroad is a whole. Although we speak of the cost as being so much per mile we mean only an average cost per mile which

bears no immediate relation to the cost of any particular mile. A railroad,—the roadbed and buildings and the equipment,—constitute one machine, neither the revenue nor the expenditures of which vary with the mileage of the road nor the mileage of the trains or the cars. The expenditure for maintaining the organization bears only a remote relation to the mileage of the road or the amount of business done. Of the expense for maintaining the plant it is estimated that about three-fifths is independent of the amount of business done. Of the expenditure for doing the work a very considerable proportion has to be incurred whether there be a large or a small volume of business. That is, the expenditure of a railroad must be regarded as a whole. It cannot be allocated between particular trains or particular cars and therefore it cannot be determined just what it costs to haul any particular commodity any particular distance.

To obtain the greatest return for its expenditure a railroad company must run the greatest possible number of trains each composed of the greatest possible number of cars and each car to the extent that may be possible must be loaded to its capacity. The revenue of a railroad company must also be considered as a whole and any portion of that whole is a gain so long as it exceeds the immediate expenditure which it entails. That it may run the greatest possible number of trains each composed of the greatest possible number of loaded cars a railroad company must seek the greatest traffic. That is, it must so adjust its rates that the greatest volume of traffic may find a market. Traffic that will not find a market unless it is hauled five hundred miles at the same rate as for fifty miles must



be hauled five hundred miles at that rate : otherwise the producers of that traffic would be deprived of their livelihood and the consumers of that which contributes to supply their wants. If to obtain traffic that would otherwise go over another line a railroad must make lower rates than to intermediate points on its own line, it must make those rates : otherwise the traffic to the intermediate points would have to provide for all of the expenditure, but if a portion of the competitive traffic is obtained, the burden upon the intermediate traffic is so much the less. If it is necessary for a railroad to secure traffic in competition with a steamboat line to make lesser rates than it obtains for similar traffic on other portions of its lines it must make these lesser rates : otherwise the traffic not in competition with the water-ways will have to bear the entire burden of the railroad's expenditure. Under this principle of charging " what the traffic will bear ", that is of not charging what the traffic will not bear there has been developed that system of distribution by means of which under railroad rates which are far lower than are elsewhere known, there is brought to the doors of the people of the United States, high and low, rich and poor, commodities in greater variety and volume than to the people of any other nation on earth. The rate of freight has decreased from 18.89 mills in gold per ton per mile in 1870 to 7.8 mills per ton per mile in 1904, the slight rise of little more than 7 % since 1899 being much less than the average increase of from twelve to fifteen per cent in the cost of railway labor and twenty-five to thirty per cent in the price of materials consumed in railway operations. The passenger mileage per capita increased from 114 in 1880 to 260 in 1903, the ton mileage per capita from 645 to

2155 and there is hardly a commodity, if indeed there is one, a given quantity of which will not purchase more railroad transportation at this time than then : there is not a day's labor of any kind that will not purchase a greater amount of railroad transportation now than then.

The determination of a railroad rate, as does the determination of any other price, results from the adjustment of several factors, each of which is made the most of by the party interested in giving it emphasis. The determination of the freight rate no more than the determination of any other price has been unattended by friction. Endless contests have been adjusted through endless compromises, the arrival at which under the genius of the common law is left to the contestants unless in the process there is trespass upon the rights of any individual or upon the public good. The status of freight rates that now exists in the United States has been reached through just such contests by just such compromises and it is a structure most sensitively interwrought.

It almost goes without saying that the processes of this achievement have not been unattended by grave abuses. Railroad managers are but human and they have had to develop a new transportation status under the pounding of industrial and commercial forces that during the last century have surged and seethed as at no other time in history. The struggles to obtain competitive business have at times led to disastrous rate wars that have been unsettling to the railroads and to business in general and in the endeavor to obtain the greatest revenue concessions have been made so large that have undoubtedly wrought injustice to small

shippers and in the endeavor to penetrate and remain in markets strongly competitive unwarranted discrimination may have been made against markets that were not. Against these and other evils that may have existed in railroad administration and may perhaps to an extent still exist there never has been a time when there could not have been recourse to the courts. To facilitate such recourse and expedite action there was enacted in 1887 the interstate commerce law under which all rebates were absolutely forbidden, all unreasonably high or unjustly discriminatory tariffs were prohibited. In 1903 was passed the Elkins law strengthening the enactment against rebates offering still further facilities for investigation and prosecution and still further expediting procedure and creating a new summary process for remedying tariff discriminations.

That the freight rates of the United States are not unreasonable in themselves is shown by the fact that during the first eighteen years of its existence the Interstate Commerce Commission so decided but twenty-six cases or about one and a half per annum. "Further than this not one of these decisions was sustained by the courts and there has not been a single case of a rate unreasonable in itself established in the courts since the interstate commerce act was passed."

That the interstate commerce law and the Elkins law afford ample protection against rebates and discriminations is proved by the recent conviction and punishment of four dressed beef shippers in Chicago for conspiracy to obtain rebates and the recent bringing of fourteen indictments against different railroads and shippers for violating the law against rebates. If however these laws can be strengthened and made more

effective in enforcement there is no one in this country who will say nay, but in the language of the President of the United States "It must not be forgotten that our railways are the arteries through which the commercial life blood of this nation flows. Nothing could be more foolish than the enactment of legislation which would unnecessarily interfere with the development and operation of these commercial agencies."

DON C. BARRETT: A large part of this problem lies around the question of the distance tariff. Our decision in the matter of giving a commission power to fix rates depends decidedly upon the extent to which a distance tariff will necessarily be made use of under such a system. Mr. Meyer of Chicago maintains that the distance tariff will become the dominating element in the rate-making process under government regulation. In his recent book—though not in his paper this afternoon—he cites proof from the experience of the leading countries of the world which have tried government regulation. Mr. Meyer of Wisconsin maintains that under regulation by commission the distance tariff will not become a chief element in the rate-making process, because to think so would argue ignorance and the lack of disinterestedness on the part of commissioners. Being a railway commissioner, he doesn't much fancy this assumption. Mr. Meyer of Chicago is able to present a rather interesting array of facts in support of his thesis, and I am inclined to believe with him. But let us admit that distance would play a great rôle in the hands of a commission with power to fix rates. It is fairly well demonstrated by the experience of foreign countries having governmental ownership or govern-

ment regulation of rates, and to some extent demonstrated by our own experience, that the fluidity or elasticity of rates tends to be destroyed in something like the proportion in which government regulation is indulged in. On the other hand, even Mr. Meyer of Chicago will admit that grave abuses of local discrimination—so grave as to accomplish the ruin of entire communities—result from the unrestrained manipulation of rates by traffic managers. But he sees so keenly the advantages of elasticity in rates that he is not willing to see this elasticity curtailed even if it is accompanied by great abuses. The principle lying at the bottom of his reasoning is that expressed by the notion of “making two blades of grass grow where one only grew before.” That is, that it is better for us to develop our resources, to increase our wealth, as rapidly as possible, regardless of other considerations and consequences. This, it seems to me, is a wrong basis for a starting point. The Interstate Commerce Commission has at times been ridiculed for attempting to regulate rates in accordance with a peculiar “theory of social progress”. It seems to me that regulation of rates in accordance with the sole principle of “making two blades of grass grow where one only grew before” is itself a regulation by a very unjust “theory of social progress”. It takes only a little inquiry into the facts to convince oneself that the existing methods of rate-making do not cause two blades of grass to grow where one grew before. Rather, it causes two blades of grass to grow in a new place, and uproots and destroys the one blade which grew before. It would be better to sacrifice some portion of the excellent quality of elasticity in order to be able to assure the public that jus-

tice, evenhanded, is being done by the carriers. What we wish to do is to avoid legislation which will take away the elasticity of the railway rates and at the same time to secure legislation which will give a sense of security against unjust discriminations between groups of individuals or different localities. To accomplish this result completely is impossible ; but to do it in the best possible fashion, the most feasible plan which has been proposed is, in my opinion, the one to establish, in the first place, a railway court to try cases directly as they arise, under laws similar to those now existing. Such a court might be either a special railway court composed of judges coördinate in rank with those of the federal Circuit Court of Appeals and with competence in no other matters except violations of statutes relating to interstate commerce ; or such a court might be composed of a given number of federal circuit court judges, not forming a separate, distinct court. The suggestion that a court composed of the given number of federal circuit court judges would tend better to keep the members of the court in close touch with the general law and spirit of our institutions, and would prevent them from exaggerating the importance of their particular court, is perhaps a good one. Then, to establish, in the second place, a commission, the majority of whom shall be traffic experts with duties to investigate the books and accounts of the railway companies, and to give expert advice to the railway court. Such a plan, providing for a railway court and a commission of experts, as Dr. Hadley has said, would not bring about radical changes, but in the long run would, like the Massachusetts plan of commission, bring better results for both public and carrier.

W. C. FISHER: The subject of our discussion, as it was announced to us, was the governmental regulation of railway rates: but, as the discussion has developed, it has, in fact, taken largely the form of a criticism of the Interstate Commerce Commission, and some of the time a rather harsh criticism at that. Probably most of us believe that we can see mistakes in the career of the commission. Probably it has framed judgments as to the character and condition of service, as to rates and all the rest, which have been proved in some measure impracticable. But we must remember that its record has been open to the examination of all, even in the first experimental years when it was developing its policy, and that the alertness of the railways to attack it whenever its policy seemed vulnerable has made every mistake show, quickly and sharply. But I wonder what would have appeared if all the records of the pools, bureaus, and associations which the railways have instituted for the regulation of their traffic had been as open to adverse criticism. Would there not have been seen a great many mistakes on that side as well? Would there not appear a long list of classifications, rates, discriminations, and agreements the impracticability or injustice of which have been unknown simply because the whole policies of which these were a part have themselves been more or less secret?

But it is not incumbent upon me, or upon any of us here, to defend the Interstate Commerce Commission. The history and policy of the Commission are well known to all of us who are gathered here; and, although an examination of the activity of that agency of the government would no doubt prove an interesting topic for discussion, I must turn my attention in the

few minutes at my disposal to the topic upon which I was asked to speak, the governmental regulation of railway rates.

The railways in this country, as abroad, have been one of the most powerful agencies in the development of twentieth century civilization. But it would be a sad error to declare that the wonderful industrial development of the United States, to which our attention has been called so often and so pointedly, has been due altogether, or even most largely, to the railways. That would be to ignore the extraordinary natural resources of our land for many forms of production, agriculture, mining, grazing, manufactures, commerce. And it would also be a sad error to affirm that the railways have contributed quite as much as they might have done to the highest development of social life in the United States, or even to the broadest and best production and distribution of wealth. That would be to ignore the many instances in which the managers of the railway system, wise and energetic as they have been, have failed to take due account of the fundamental economic and social principles to which they, like all the rest of us, must conform their action if they would attain the best and the most permanent results for all classes in society. And that would, I fear, also be to ignore still more instances in which the managers of our railways have sought, by the unjust employment of their great power, to secure for their respective companies, and sometimes for their individual selves, iniquitous gains at the cost of very great damage to others. In short, a careful survey of our industrial history will not allow us to believe that an industry which affects so profoundly the largest interests of society, in which



there is so little opportunity for the safeguards of competition, and in which such vast power has come to be centralized in the hands of a few, can with any safety be released from the restraining and guiding influence of organized society.

It is, to be sure, probable that government will make mistakes of one sort and another in the exercise of control. Indeed, I should say more. It is certain that government will make very serious mistakes. But, even with our very incomplete knowledge of what the private managers of railways have done, I should not hesitate to say that they too have made very many serious mistakes; and I cannot doubt that what we know is only a small part of what has been kept from us in the secret records of the pools and traffic associations. But, to my mind, it is clear that, if railways are to be regarded as agencies of the highest importance for the development and betterment of social life at large, and not merely as sources of private gain for the so-called owners, we may be sure of a larger true balance of good over evil under that arrangement by which government exercises a real and constant control. I cannot doubt that, by a proper organization of its agencies of control, government can command in sufficient numbers men of as high ability as can be found in railway offices, and men who, by their training and position, will be quite as competent as the railway managers to solve the complex and difficult problems of railway administration. And it must be counted as an advantage of unmeasured importance for the public *control that government officials are less under the temptation to subordinate the known interests of society as a whole to the possibility of their own easy and safe aggrandizement.*

If then the propriety of some sort of governmental control be granted, the method and agency seem to me to be easy of selection, at least in a general way. The railway business, like other forms of business, and the possibilities of benefit and damage to society centre about its charges; and government will never lack for real control as long as it asserts its authority over rates and those other terms and conditions of service which are intimately connected with rates.

And, if we proceed further upon the assumption of that measure of distinctness among the departments and agencies of government which the form of our American institutions—and perhaps the nature of government itself—imposes upon us, there can be little doubt that the most advantageous agency of control cannot be what we call legislative or judicial, and that it must, therefore, be executive or administrative. A typical case of the problems of public control would be the simple determination of a just rate. And it is manifest that the determination of such a rate by legislative procedure would be intolerably slow of achievement; or, what in reality amounts to much the same thing, that it would give too great a fixity of rates. Much the same objection must lie against the declaration of a just rate by the ordinary processes of the general courts, even if anything more than the power to decide that a given rate is not just be conceded to the courts. There remains then only the general possibility of an agency whose functions would resemble in some measure the judicial and which might, therefore, be called a court, but which more properly should be classed among the administrative branches of government. The precise character of this administrative agency and the

exact powers to be entrusted to it could not well be determined in advance of experience; but I do not believe that we should go far astray in giving approval to an agency somewhat like the Interstate Commerce Commission endowed with the larger authority which it is just now proposed to confer.

But upon all matters of detail there may be honest and perhaps considerable differences of opinion. I do not see how anyone who understands the drift of sentiment at present, not only in the United States but all over the world, can hesitate to give his approval to some form of effective governmental control of the railways. The growing determination that what concerns the vital interests of all shall be administered in such way as to promote the welfare of all—the growth of socialism, if you wish to call it so—is so manifest that those who are reluctant to see the vast capital of the railways taken over outright by the state ought to be among the first to make sure of a compromise while yet a compromise is possible. If it is public control now, it may very well be public ownership in the near future.

F. B. THURBER: I have been a student of the transportation problem for thirty years; first, as a shipper, and more recently as president of the U. S. Export Association, which is interested in widening the markets for American products. When I began I thought I knew all about it. Thirty years study has taught me that I have still much to learn.

In this, as in most other problems, it comes down, in the last analysis, to what is reasonable.

The suit of the United States against R. D. Wood & Co., iron pipe manufacturers, of Philadelphia, for ac-

cepting a rebate of five cents per 100 lbs. on 15,000 tons of iron pipe shipped to Winnipeg, Manitoba and against certain railroads for giving it, is a case in point.

This was an export order and the United States would not have got the business unless the lower freight rate had been made. Who was benefitted by this? American labor and American capital. Who was injured? The Scotch or English manufacturers, who would otherwise have got the business.

Let us take another case: A grain merchant in Chicago receives a cable offer from Liverpool for a cargo of wheat. At the schedule rate of freight by regular lines it cannot be accepted. The grain merchant goes to the contracting freight agent, shows him the offer and asks for a cut rate which will enable him to get the business. The agent sees that it is a case of necessity, takes the risk of getting a low ocean rate by a tram steamer or getting the regular lines to pro-rate, and names a through rate that will take the business, and within an hour acceptance is cabled, and the United States has sold a cargo of wheat instead of Argentine. If the rate-making power had been in official clamps, it would have been impossible to transact this business, because of the delay and red tape which would have been necessary—and yet our well-meaning President has said that the land rate on all international business must be rigidly maintained.

The local grain merchant on the seaboard was not injured by this transaction, and so long as his rate to the seaboard for local consumption is reasonable, he has no reason to find fault. In point of fact his rate is less than one-half that of other principal countries.

Suppose our trans-continental roads wish to develop

the market in the Orient for Southern cotton or Pennsylvania iron, by making a cut rate to the Pacific Coast on some special transaction. Is it reasonable that they should not be permitted to do so, provided that the same rate is open to all under similar circumstances? In the intricate play and interplay of competitive forces in modern commerce there should be a reasonable elasticity. Let the highways of commerce be open to all upon equal terms under like circumstances, but in this age of steam and electricity, when "the field is the world" in commerce as well as in religion, we should not put our commerce into castiron clamps.

D. C. W. THOM : The most heralded plan for regulation would, first, very greatly reduce wages ; secondly, cut the market value of transportation securities ; thirdly, destroy an appalling amount of the property of the farmers and inland business men ; and, finally, would shock business.

The Constitution empowered the Congress "to regulate commerce among the several states" and to establish post roads. And as the Congress has wisely decided not to avail itself of that power directly, but rather, by means of private initiative, it should so safeguard its exercise that the smallest or the weakest shipper will enjoy as favorable a rate as the greatest or strongest shipper. But I also read these words : "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property without due process of law". Therefore, I advocate a procedure which shall safeguard the interests of the shipper but without trenching upon property rights.

I propose essentially three things :

First. Legalized pooling of rates. That would permit a flexibility which, while fostering business, would promote such a well digested schedule that appeals from it need seldom occur.

Secondly. The speedy presentation at the request of an investigating Interstate Commerce Commission by the Department of Justice at its own cost of the case of any complaining shipper for prompt and final decision so far as it concerns damages and the announcement of a fair rate before such one as it chose of either of the United States Courts immediately subordinate to the Supreme Court.

Third. Such increase of the personnel of the said two courts as might be necessary to speedily handle any new business resulting from rate appeals.

Adequate relief would be had in a constitutional way, and every shipper would be guaranteed an equal opportunity.

But what a jumble of influences would be upon any body of men who, in reaching a conclusion upon an appeal rate case, would be called upon, to investigate, to declare judicially against a certain rate, to legislate as to what rate should be established, and to have applied the rate they have declared proper.

Such administration must prove unfair. For no one small body of men can hope to grasp fairly all the local conditions needed to be realized before a sound conclusion as to what is a fair rate could be reached. The inevitable tendency of such tribunals is to establish a fixed rate per mile—your distance tariff. The history of all the nations shows that. Indeed, whenever a small central body has been entrusted with the establishing

of rates, you promptly get a lower rate and very soon a low and a distance rate; for the lowest rate extant in the territory in question is taken as a basis practically regardless of conditions, because the same rate per mile for hauling the same goods seems on its face so fair a proposition that the tribunal's decision is made to that effect. In the United States, then, we would expect that an Interstate Commerce Commission in making rates would bring about lower rates and distance rates.

Put that into effect. The railroad's income falls away. The wages of employees suffer first. Would it help business to have them suffer? And would it be well for holders of transportation company's securities to suffer too? And would it help the general welfare of this country to have a farmer or a business man a thousand miles from a suitable export market kept from his fair quota of business because the cost of raising plus the fixed rate per mile of freight to the export market prevented his competing with his competitor who was only one hundred miles away from that market? The value of those distant farming lands would fall off. The incidence on all non-local business would be similar.

But you object, saying one must pay the penalty of distance. Since the vast majority of American citizens live far away from export shipping points, why should that great majority wish to injure themselves? They do not. They are only not yet aware of that corollary of the Interstate Commerce plan. So much for that phase of the question.

Why should Congress think it right to take through arbitrarily enforced reduction of tolls the value of private property it had called into being through the

granting of certain rights? That is what is really proposed when to any extent beyond seeing that a definite piece of hauling is done at a sound rate they would institute an executive body clothed with arbitrary rate-making powers until after a tedious time the court may correct them.

Justice does not result under such influences from a rate-making commission. But there is one place where justice does customarily result. That is in a regular American court. For the freedom that is predicated in that, for the business growth that it implies, for all the thousand benefits that would flow from its orderly application, I advocate the plan I have stated; for in that way only, it seems to me, can the people obtain justice.

H. R. MEYER :<sup>1</sup> I beg leave to reply to certain criticisms made by Messrs. Meyer and Fisher upon my book upon "Government regulation of railway rates."

As to the statement that the firm of von Bolle was stabling 1400 cows in Berlin in 1902. Upon referring to the notes which I used in the preparation of my book, I find that I had before me the following facts, taken from *Vierteljahreshefte zur Statistik des Deutschen Reichs*, *Statistisches Jahrbuch f. d. Deutsche Reich* and *Preussische Statistik*. The number of cows stabled in Berlin in 1883, 1892 and 1900, was respectively: 2584, 5236 and 10,010. There were indications that about 70% of the increase in the number of cows between 1892 and 1900 had occurred in 1898 to 1900. On the assumption that the rate of increase in 1898 to 1900

<sup>1</sup> Mr. Meyer did not recall his remarks and substituted the following for them.



was maintained in 1900 and 1902, there would have been in 1902 no less than 12238. Furthermore, the article in the *Zeitung d. Vereins deutscher Eisenbahnverwaltungen* stated that the difficulty of supplying Berlin with milk was increasing. Under the circumstance, I felt warranted in assuming that he was correct in saying that the firm of von Bolle was stabling 14,000 cows in Berlin. It was not inconceivable that the firm in question should have practically a monopoly of the dairy industry within Berlin.

Subsequent investigation has shown me that there were in 1902, in Berlin: 9629 cows. It has also shown that distant regions cannot be enabled to supply milk for the daily consumption of large cities unless those distant regions have the advantage of the American practice of group rates. In 1902, no less than 18% of the milk supply of Berlin, with the suburbs of Charlottenburg, Schöneberg and Rixdorf was produced within those cities, by 11,431 cows. Another 10% was brought in by wagon; and only 72% was brought in by rail. The railway department had in force milk rates from points as far distant as 194 miles. But as a matter of fact the railway departments' rates were practically prohibitive for points distant more than 75 miles. Not less than 98.65% of the milk carried into Berlin by rail was shipped not to exceed 75 miles; 85.5% was shipped not to exceed 50 miles; and 33.74% was shipped not to exceed 25 miles.

Mr. Meyer's criticism that I had attributed to M. Colson's "*Tarifs et transports*" statements not to be found in that book, if well founded, is to be attributed to ignorance on my part of the rules governing the practice of making references. At the close of the chapter

on France I made a reference to M. Colson's book, intending to indicate that in that book the reader would find a wealth of facts showing the discrimination which exists in France in favor of districts supplied with waterways as against districts supplied with railways only. I regret that I did not make the note read : For instances of such discrimination, compare C. Colson : "*Transports et tarifs.*"

Mr. Willard Fisher regretted that he had found me guilty of misleading the reader by stating, in the course of a comparison of European and American railway rates, that in the United States millions of bushels of wheat for export had moved to the seaboard at less than 1.5 mills per ton-mile. Mr. Fisher said the statement was misleading, for it appeared in another part of the book that the rate in question had been made during a rate war. On p. 145 of my book occurs this sentence : In the United States, millions of bushels of wheat for export have moved to the seaboard at less than 1.5 mills per short ton mile, and probably the average receipts for grain moving to the Atlantic seaboard for export are nearer 2 mills than 3 mills per short ton mile.

B. H. MEYER : In the concluding paragraphs of my paper I have made only general statements regarding the testimony and recently published book of the preceding speaker, Mr. Hugo R. Meyer. I assume responsibility for full and definite proof of my statements, and in due time I hope to lay before members of the Association in printed form more definite criticism with specific references. The preceding speaker has used references in a manner which appears to me to be unwarranted. In the chapter on France, for instance, he

makes several general references to Colson. The reference in the closing paragraph of the chapter is to Colson, thus tending to convey the impression that Colson supports his (Mr. H. R. Meyer's) opinions. This particular volume of Colson's embraces about 700 pages, and it must be conceded that specific references should have been given. In a number of places in this volume, "*Transports et tarifs*," Colson expresses opinions which are exactly the reverse of the dominating opinions of the author, and in one place where Colson speaks of the right of the railway companies to take the initiative in making rates, and the power of the minister of public works to approve or disapprove such rates, he describes this arrangement as a most happy one.

Again, we have all heard about the 14,000 cows which a man by the name of Bolle is said to maintain in the city of Berlin, because the Prussian railways make it impossible for him and other milk dealers to secure an adequate supply of milk by means of the railways. As a matter of fact, Bolle has not a single cow in Berlin and keeps only about 150 in one of the suburbs. Furthermore, the total number of cows in Berlin together with the adjacent suburbs is very much less than 14,000, and according to the statement of Bolle, which I have in writing, there is no causal connection whatever between the number of cows in Berlin and the railway rates on milk. Mere coincidences must not be considered as causal relations. There are many other factors to be considered when one discusses the number of cows kept in Berlin or in any other German city. Those who are familiar with German life know very well how frequently one can see in the small German town a cow or a goat feeding upon the small grazing plots connected

with the parcels of land which are owned by day-laborers. One may say that it is a national custom to maintain a cow or a goat if it is in any way possible to do so. It remains to be seen to what extent this national custom influences the number of cows which are kept in the large cities; but this subject is one which cannot be pursued further here. We may well ask, How did Mr. Hugo R. Meyer happen to make such an error,—an error which he repeats twice in his book, and presents with a good many embellishments in his testimony before the senate committee. In one place in his book, he gives as his authority for the statement regarding the 14,000 cows, the *Zeitung des Vereins Deutscher Eisenbahnverwaltungen*. Fortunately, I had been a reader of this paper for some time before the book appeared, and I could readily refer to it. The article referred to discusses the history of the development of the milk traffic, and in the opening paragraphs the author, referring to the great development of the milk supply for cities, says, in an entirely casual manner, that it is reported that Bolle has 14,000 cows in Berlin. He does not give this as a fact, but merely as a matter of hearsay, and his purpose in referring to this report is to illustrate the magnitude of the dairy business. The writer of the article then goes on to sketch the development of the milk business and the milk traffic on the railways, stating that twenty years of experience in dealing with the state railways has resulted in the needs of the agricultural and the dairy interests having been met in a satisfactory manner. On the whole, an impartial reader would be compelled to say that this article in the *Zeitung* was appreciative with respect to the services rendered by the railways. Mr. Hugo R. Meyer might be par-

doned for using the statement contained in so reliable a paper as the *Zeitung*, although very few members of the American Economic Association would have the courage to draw far-reaching conclusions on the basis of newspaper reports. My chief objection, however, is not that the author of the book uses references from the *Zeitung*, but that the *Zeitung* and other references quoted by him do not state what he says they do.

The preceding speaker seems to ignore the very important fact that in Prussia all proceedings with reference to railway rates are published. Everything is carried on in full view of the public eye. Suppose we could have proceedings in the United States similar to this! Suppose we could know everything that is said in the railway offices and in the meetings of committees and conferences between shippers and representatives of the railways! Suppose we could have an official report of the many proceedings connected with the establishment of the percentage grouping or basing system! By collecting the expressions of the discontented made before these many different committees, or in different railway offices, and skillfully presenting them in the form of a brief, as the preceding speaker has done with reference to the Prussian railways, it would be possible to construct a railway history of the United States which would make us appear to be a nation of anarchists.

I am very sorry that I must say these things, but certain misleading statements have been spread broadcast throughout this country, and I feel constrained to say at least this much in this place.

The subject which we were requested to discuss by the President of the Association was the public regula-

tion of railway rates, and not an accusation or defense of the Interstate Commerce Commission. I have, therefore, devoted practically no space to the Interstate Commerce Commission, except in so far as a reference to this Commission is necessary in an intelligent discussion of the subject. The Interstate Commerce Commission needs no defense at my hands. Yet I wish to embrace this opportunity to say that, taking the work of the Commission from the time of its organization to the present, I have a very good opinion of it. I cannot share the view which has been expressed by some regarding the alleged deterioration of the work of the Commission. I have not read all of its decisions, but I have read carefully the great majority of them, and I do not hesitate to say that the decisions of the last five years compare most favorably with the decisions of the first five years or of any other five years in the history of the Commission.

I yield to no man in my appreciation of what the great railway leaders of the country have accomplished. We need legislation, not for the most of them, not for the many, but rather for the few who fail to use the great power which is vested in their hands in accordance with principles of justice, and who through the misuse of their power coerce others, who would voluntarily do what most men regard as right, into their own objectionable ways of conducting the transportation business of the country. This is why we need additional legislation.